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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,508	03/22/2001	Scott Edward Kent	DP-303704	4389
22851	7590	07/29/2004	EXAMINER	
DELPHI TECHNOLOGIES, INC. M/C 480-410-202 PO BOX 5052 TROY, MI 48007			LEO, LEONARD R	
		ART UNIT	PAPER NUMBER	
		3753	9	
DATE MAILED: 07/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/814,508	KENT ET AL. <i>ML</i>
Examiner	Art Unit	
Leonard R. Leo	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7-8</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

The indicated allowability of claims 1-4 is withdrawn in view of the newly discovered reference(s) to Kikuchi. Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi in view of Yu et al.

Kikuchi (Figure 5) discloses all the claimed limitations except turned out feet.

Yu et al discloses a flat heat exchange tube comprising a lower wall 30 and a pair of upper walls 32 with a pair of integral abutted walls 48, 50 and turned out feet 58, 60 respectively for the purpose of increasing the tube strength by ensuring a good braze connection (column 3, lines 30-34).

Since Kikuchi and Yu et al are both from the same field of endeavor and/or analogous art, the purpose disclosed by Yu et al would have been recognized in the pertinent art of Kikuchi.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Kikuchi turned out feet for the purpose of increasing the tube strength by ensuring a good braze connection as recognized by Yu et al.

Regarding claims 3-4, the recitation of “coated with braze material” is considered to be a method limitation in an apparatus claim, which bears no patentable weight in this instance. See MPEP 2113. In the final product, the presence of braze material is at the joints.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi in view of Yu et al as applied to claims 1-2 above, and further in view of Tamura.

The combined teachings of Kikuchi and B lacks braze material on the inner and outer surfaces of the tube.

Tamura (Figure 1) discloses a flat heat exchange tube comprising a tube wall 7 having braze material 14, 15 on the inner and outer surfaces thereof for the purpose of reducing cost (abstract).

Since Kikuchi and Tamura are both from the same field of endeavor and/or analogous art, the purpose disclosed by Tamura would have been recognized in the pertinent art of Kikuchi.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Kikuchi braze material on the inner and outer surfaces thereof for the purpose of reducing cost as recognized by Tamura.

Regarding claim 4, Tamura (Figure 3) discloses braze material 11 on the outer surface of the tube while the web 9 has braze material on both sides thereof.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be

directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648. Status of the application may also be obtained from the Internet: <http://pair.uspto.gov/cgi-bin/final/home.pl>

Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.



LEONARD R. LEO  
PRIMARY EXAMINER  
ART UNIT 3753

July 7, 2004